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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/058,087 | 01/29/2002 | Haruko Toyoshima | 0445-0315P | 2505 |

2292 7590 05/07/2003

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| EXAMINER |
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REICHLER, KARIN M

| ART UNIT | PAPER NUMBER |
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3761

DATE MAILED: 05/07/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/058,087

Applicant(s)

TOYOSHIMA, HARUKO

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5, 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. The abstract of the disclosure is objected to because the abstract is too long, i.e. it should be no more than 150 words in length for printing purposes. Also terminology which can be inferred, i.e. "of the present invention", and legal terminology, "comprises", should be avoided.

Correction is required. See MPEP § 608.01(b).

2. The drawings are objected to because in Figure 1, the lines from 8 should be dashed to denote underlying structure. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: page 1, line 7-8.

4. It is noted that the last three lines on page 14 are redundant, i.e. if the application is allowed the priority will appear on the front thereof.

5. Claims 1-4 are objected to because of the following informalities: on line 4, "each side edge" should be --respective side edges-- to be consistent with the terminology "pair...provided". On line 8, after "members,", --, respectively,-- should be inserted. In claim 3, line 2, after "between", --the-- should be inserted. In claim 4, lines 1-2, "pair...each" should be --each of said pair of elastic members--. Appropriate correction is required.

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6. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 1, a positive structural antecedent basis for "each side edge"(line 4) should be set forth. A positive structural antecedent basis for "the waist opening...in the portion..tapes"(lines 5-6) should be set forth. Positive antecedent bases for "both longer side portions"(lines 7-8), "each longer side of the absorbent member"(line 10) and "at least the middle...exists"(lines 11-12) should be defined.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Clear et al '584, and thereby Buell et al '274.

See Figure 2, topsheet 24, backsheet 22, core 28, fastening tapes 92, landing zone 44, waist elastic member 34, under-waist members 90, leg elastic members 432. See also col. 14, lines 27-61, col. 15, line 16-col. 16, line 24 of Clear et al, and thereby Buell '274 at, e.g., col. 51, lines 3-64, esp. lines 56-64, Figure 1, col. 15, lines 16-27, col. 23, lines 13 et seq, col. 33, lines 51-53, col. 42, lines 44-52, col. 43, lines 14-38. It is also noted that 1N is about 150 gf.

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9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Watanabe et al device teaches an under-waist portion where the stress is less than that of the waist opening portion.

10. Any inquiry concerning this communication should be directed to K. M. Reichle at telephone number 703-308-2617. The Examiner's regular work schedule is Monday-Thursday. The Official RightFAX number is 703-872-9302.

K.M. Reichle
KARIN REICHEL
PATENT EXAMINER

KMR

May 2, 2003